

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

USCA Docket Number:

USDC Docket Number : 04-cr-10393

United States of America

v.

Falcon Andujar-Arias

CLERK'S CERTIFICATE

I, Sarah A Thornton, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents as indicated on the certified copy of the docket and contained in Volume(s) I are the original pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 12/8/05.

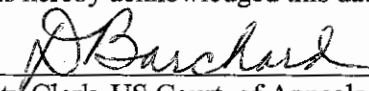
In testimony whereof, I hereunto set my hand and affix the seal of this Court on January 24, 2006.

Sarah A. Thornton, Clerk of Court

By: 

Jeanette Ramos, Deputy Clerk

Receipt of the documents in the above entitled case is hereby acknowledged this date: 1/24/06


Deputy Clerk, US Court of Appeals

Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: _____

APPEAL, CLOSED, INTERP, MAG

**United States District Court
District of Massachusetts (Boston)
CRIMINAL DOCKET FOR CASE #: 1:04-cr-10393-RGS-ALL**

Case title: USA v. Andujar-Arais

Date Filed: 12/22/2004

Assigned to: Judge Richard G.
Stearns

Defendant

Falcon Diomedes Andujar-Arais (1)

TERMINATED: 12/07/2005

also known as

Falcon Diomedes Ortiz-Lara (1)

TERMINATED: 12/07/2005

also known as

Nelson Ortiz (1)

TERMINATED: 12/07/2005

also known as

Falcon Ortiz (1)

TERMINATED: 12/07/2005

also known as

Falcon Arias (1)

TERMINATED: 12/07/2005

also known as

Falcon Diomedes (1)

TERMINATED: 12/07/2005

also known as

Dwight Braswell (1)

TERMINATED: 12/07/2005

represented by **Catherine K. Byrne**
Federal Defender's Office
District of Massachusetts
408 Atlantic Ave.
Third Floor
Suite 328
Boston, MA 02210
617-223-8061
Fax: 617-223-8080
Email: catherine_byrne@fd.org
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
*Designation: Public Defender or
Community Defender
Appointment*

Leo T. Sorokin
Federal Defender's Office
408 Atlantic Ave.
Third Floor
Boston, MA 02210
617-223-8061
Fax: 617-223-8080
TERMINATED: 03/31/2005
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
*Designation: Public Defender or
Community Defender
Appointment*

Miriam Conrad
Federal Defender's Office
Williams Coast Guard Building
408 Atlantic Ave.
Third Floor
Boston, MA 02210
617-223-8061
Fax: 617-223-8080
Email: miriam_conrad@fd.org
TERMINATED: 05/16/2005
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Public Defender or
Community Defender
Appointment

Pending Counts

None

Highest Offense Level
(Opening)

None

Terminated Counts

8:1326 Illegal REENTRY OF
DEPORTED ALIENS
(1)

Highest Offense Level
(Terminated)

Felony

Complaints

None

Disposition

Disposition

70 months to be served.
Supervised Release for 2 years
with Special Conditions. Special
Assessment of \$100 to be paid
forthwith.

Disposition

Plaintiff

USA

represented by **Nadine Pellegrini**

United States Attorney's Office
John Joseph Moakley Federal
Courthouse
1 Courthouse Way
Suite 9200
Boston, MA 02210
617-748-3107
Fax: 617-748-3951
Email:
nadine.pellegrini@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
12/23/2004	1	INDICTMENT as to Falcon Diomedes Andujar-Arais (1) count(s) 1. (Gawlik, Cathy) (Entered: 12/23/2004)
12/23/2004	2	Judge Richard G. Stearns : ORDER entered ORDER REFERRING CASE to Magistrate Judge Judith G. Dein Reason for referral: Pretrial proceedings as to Falcon Diomedes Andujar-Arais (Gawlik, Cathy) (Entered: 12/23/2004)
12/23/2004		Arrest Warrant Issued as to Falcon Diomedes Andujar-Arais. (Gawlik, Cathy) (Entered: 12/23/2004)
12/23/2004		Attorney update in case as to Falcon Diomedes Andujar-Arais. Attorney Leo T. Sorokin for Falcon Diomedes Andujar-Arais added. (Quinn, Thomas) (Entered: 12/29/2004)
12/23/2004		Electronic Clerk's Notes for proceedings held before Judge Judith G. Dein :Initial Appearance as to Falcon Diomedes Andujar-Arais held on 12/23/2004: Spanish Interpreter Huacuja; AUSA Pellegrini and Attorney Sorokin for the dft.; USMJ Dein informs the dft. of his rights and charges; Dft. files CJA 23 and requests counsel; USMJ Dein appoints counsel; Govt. moves for detention and continuance; USMJ Dein orders the dft. to temporary detention pending hearing on 1/3/05 @ 11:00am. (Court Reporter D.R.) (Quinn, Thomas) (Entered: 12/29/2004)
12/23/2004	3	CJA 23 Financial Affidavit by Falcon Diomedes Andujar-

		Arais (Quinn, Thomas) (Entered: 12/29/2004)
12/23/2004	●4	Judge Judith G. Dein : ORDER entered ORDER APPOINTING FEDERAL PUBLIC DEFENDER as to Falcon Diomedes Andujar-Arais (Quinn, Thomas) (Entered: 12/29/2004)
12/23/2004	●8	Arrest Warrant Returned Executed on 12/23/04. as to Falcon Diomedes Andujar-Arais. (Flaherty, Elaine) (Entered: 01/05/2005)
01/03/2005	●	ElectronicClerk's Notes for proceedings held before Judge Judith G. Dein :Arraignment as to Falcon Diomedes Andujar-Arais (1) Count 1 held on 1/3/2005, Detention Hearing as to Falcon Diomedes Andujar-Arais held on 1/3/2005; AUSA Pelegrini and Attorney Sorokin for the dft.; Dft. pleads not guilty and will proceed with automatic discovery; Dft. consents to order of detention; Status conference is set for 2/14/05 (Court Reporter D.R..) (Quinn, Thomas) (Entered: 01/03/2005)
01/03/2005	●5	Judge Judith G. Dein : ElectronicORDER entered. SCHEDULING ORDER as to Falcon Diomedes Andujar-Arais Status Conference set for 2/14/2005 10:00 AM in Courtroom 15 before Magistrate Judge Judith G. Dein. (Quinn, Thomas) (Entered: 01/03/2005)
01/03/2005	●6	Judge Judith G. Dein : ElectronicORDER entered. ORDER OF DETENTION as to Falcon Diomedes Andujar-Arais (Quinn, Thomas) (Entered: 01/03/2005)
01/03/2005	●7	Judge Judith G. Dein : ElectronicORDER entered. ORDER ON EXCLUDABLE DELAY as to Falcon Diomedes Andujar-Arais Time excluded from 1/3/05 until 1/31/05. (Quinn, Thomas) (Entered: 01/03/2005)
02/14/2005	●	Electronic Clerk's Notes for proceedings held before Judge Judith G. Dein :Status Conference as to Falcon Diomedes Andujar-Arais held on 2/14/2005; AUSA Pellegrini and attorney Sorokin report curent case status and request futer conference on 3/30/05 @ 2:30pm. (Court Reporter D.R..) (Quinn, Thomas) (Entered: 02/14/2005)
02/14/2005	●9	Judge Judith G. Dein : ORDER entered. INITIAL STATUS REPORT as to Falcon Diomedes Andujar-Arais. Status Conference set for 3/30/2005 02:30 PM in Courtroom 15

		before Magistrate Judge Judith G. Dein. (Dambrosio, Jolyne) (Entered: 02/15/2005)
02/14/2005	● <u>10</u>	Judge Judith G. Dein : ORDER entered. ORDER ON EXCLUDABLE DELAY as to Falcon Diomedes Andujar-Arais. Time excluded from 2/14/05 until 3/30/05. (Dambrosio, Jolyne) (Entered: 02/15/2005)
02/16/2005	● <u>11</u>	Judge Judith G. Dein : Initial STATUS REPORT as to Falcon Diomedes Andujar-Arais (Flaherty, Elaine) (Entered: 02/22/2005)
03/17/2005	● <u>12</u>	MOTION to Withdraw as Attorney by Leo T. Sorokin. as to Falcon Diomedes Andujar-Arais. (Sorokin, Leo) (Entered: 03/17/2005)
03/17/2005	● <u>13</u>	NOTICE OF ATTORNEY APPEARANCE: Miriam Conrad appearing for Falcon Diomedes Andujar-Arais (Conrad, Miriam) (Entered: 03/17/2005)
03/21/2005	●	Judge Judith G. Dein : Electronic ORDER entered granting <u>12</u> Motion to Withdraw as Attorney. (Dambrosio, Jolyne) (Entered: 03/21/2005)
03/30/2005	●	Electronic Clerk's Notes for proceedings held before Judge Judith G. Dein :Status Conference as to Falcon Diomedes Andujar-Arais held on 3/30/2005; AUSA Pellegrini and Attorney Conrad report current case status and seek further conference at 5/3/05 @ 2:30pm (Court Reporter D.R..) (Quinn, Thomas) (Entered: 03/31/2005)
03/30/2005	● <u>14</u>	Judge Judith G. Dein : ORDER entered. STATUS REPORT as to Falcon Diomedes Andujar-Arais Status Conference set for 5/3/2005 02:30 PM in Courtroom 15 before Magistrate Judge Judith G. Dein. (Quinn, Thomas) (Entered: 03/31/2005)
03/30/2005	● <u>15</u>	Judge Judith G. Dein : ORDER entered. ORDER ON EXCLUDABLE DELAY as to Falcon Diomedes Andujar-Arais Time excluded from 3/30/05 until 5/3/05. (Quinn, Thomas) (Entered: 03/31/2005)
03/31/2005	●	Attorney update in case as to Falcon Diomedes Andujar-Arais. Attorney Miriam Conrad for Falcon Diomedes Andujar-Arais added. Attorney Leo T. Sorokin terminated. (Quinn, Thomas) (Entered: 03/31/2005)
05/03/2005	●	Electronic Clerk's Notes for proceedings held before Judge

		Judith G. Dein :Status Conference as to Falcon Diomedes Andujar-Arais held on 5/3/2005; AUSA Pellegrini and Attorney Conrad report discovery is ongoing and seek further conference for 6/14/05 @ 2:45pm (Court Reporter D.R.) (Quinn, Thomas) (Entered: 05/04/2005)
05/03/2005	● <u>16</u>	Judge Judith G. Dein : ORDER entered. STATUS REPORT as to Falcon Diomedes Andujar-Arais Status Conference set for 6/14/2005 02:45 PM in Courtroom 15 before Magistrate Judge Judith G. Dein. (Quinn, Thomas) (Entered: 05/04/2005)
05/03/2005	● <u>17</u>	Judge Judith G. Dein : ORDER entered. ORDER ON EXCLUDABLE DELAY as to Falcon Diomedes Andujar-Arais Time excluded from 5/3/05 until 6/14/05. (Quinn, Thomas) (Entered: 05/04/2005)
05/16/2005	● <u>18</u>	NOTICE of Withdrawal of Appearance in case as to Falcon Diomedes Andujar-Arais. Attorney Miriam Conrad terminated. (Conrad, Miriam) (Entered: 05/16/2005)
05/16/2005	● <u>19</u>	NOTICE OF ATTORNEY APPEARANCE: Catherine K. Byrne appearing for Falcon Diomedes Andujar-Arais (Byrne, Catherine) (Entered: 05/16/2005)
05/18/2005	●	Attorney update in case as to Falcon Diomedes Andujar-Arais. Attorney Catherine K. Byrne for Falcon Diomedes Andujar-Arais added. (Flaherty, Elaine) (Entered: 05/18/2005)
06/14/2005	● <u>20</u>	STATUS REPORT <i>Final and Jointly Filed</i> by Falcon Diomedes Andujar-Arais, USA as to Falcon Diomedes Andujar-Arais (Pellegrini, Nadine) (Entered: 06/14/2005)
06/14/2005	●	Electronic Clerk's Notes for proceedings held before Judge Judith G. Dein :Status Conference as to Falcon Diomedes Andujar-Arais held on 6/14/2005; AUSA Pellegrini and Attorney Byrne report discovery is complete; USMJ Dein will issue report and return file to district court. (Court Reporter D.R.) (Quinn, Thomas) (Entered: 06/15/2005)
06/14/2005	● <u>21</u>	Judge Judith G. Dein : ORDER entered. FINAL STATUS REPORT as to Falcon Diomedes Andujar-Arais (Quinn, Thomas) (Entered: 06/15/2005)
06/22/2005	●	Electronic NOTICE OF HEARING as to Falcon Diomedes Andujar-Arais: Change of Plea Hearing set for 7/14/2005 03:30 PM in Courtroom 21 before Judge Richard G. Stearns. (Johnson, Mary, Courtroom Clerk). (Entered: 06/22/2005)

07/14/2005	●	Electronic Clerk's Notes for proceedings held before Judge Richard G. Stearns :Change of Plea Hearing as to Falcon Diomedes Andujar-Arais held on 7/14/2005. The spelling of deft's last name is ARIAS. AUSA Pellegrini present for the Govt. Atty. Byne of Fed. Defender's office present for deft. Deft. sworn. After hearing, deft. pleads guilty (no plea agreement) to Count 1 of the one-count Indictment. Guilty plea was accepted by the Court, and sentencing is scheduled for OCTOBER 19, 2005 AT 3:00 P.M. Defendant remains in Federal custody. (Court Reporter James Gibbons.) (Johnson, Mary) Modified on 7/15/2005 (Johnson, Mary). (Entered: 07/15/2005)
07/15/2005	●22	Judge Richard G. Stearns : Electronic ORDER entered. PROCEDURAL ORDER re sentencing hearing as to Falcon Diomedes Andujar-Arias. Sentencing set for 10/19/2005 03:00 PM in Courtroom 21 before Judge Richard G. Stearns. (Johnson, Mary) (Entered: 07/15/2005)
07/15/2005	●	Electronic Clerk's Notes for proceedings held before Judge Richard G. Stearns :Plea entered by Falcon Diomedes Andujar-Arais (1) Guilty Count 1. (Court Reporter James Gibbons.) (Johnson, Mary) (Entered: 07/15/2005)
10/14/2005	●23	MOTION to Continue <i>Sentencing</i> as to Falcon Diomedes Andujar-Arais. (Byrne, Catherine) (Entered: 10/14/2005)
10/14/2005	●	Judge Richard G. Stearns : ElectronicORDER entered granting 23 Motion to Continue as to Falcon Diomedes Andujar-Arais (1)."Sentencing is re-scheduled to NOVEMBER 29, 2005 AT 2:30 P.M." (Johnson, Mary) (Entered: 10/14/2005)
10/14/2005	●24	TRANSCRIPT of Plea Hearing as to Falcon Diomedes Andujar-Arais held on July 14, 2005 before Judge Stearns. Court Reporter: James P. Gibbons. The original transcripts are maintained in the case file in the Clerk's Office. Copies may be obtained by contacting the court reporter at 617/428-0402 or the Clerk's Office. (Scalfani, Deborah) (Entered: 10/14/2005)
11/23/2005	●25	SENTENCING MEMORANDUM by Falcon Diomedes Andujar-Arais (Attachments: # 1)(Byrne, Catherine) (Entered: 11/23/2005)
11/29/2005	●	ElectronicClerk's Notes for proceedings held before Judge Richard G. Stearns : Sentencing held on 11/29/2005 for Falcon Diomedes Andujar-Arais (1). AUSA Pellegrini present for the

		Govt. Atty. Catherine Byrne present for the deft. USPO Denise Rivera present for the Probation Dept. Atty. Byrne argues for a downward departure, and after argument, the request is DENIED. Count(s) 1, 70 months to be served. Supervised Release for 2 years with Special Conditions. Special Assessment of \$100 to be paid forthwith. (Court Reporter James Gibbons.) (Johnson, Mary) Modified on 12/7/2005 (Johnson, Mary). (Entered: 12/07/2005)
12/07/2005	26	Judge Richard G. Stearns : ORDER entered. JUDGMENT as to Falcon Diomedes Andujar-Arais (1), Count(s) 1, 70 months to be served. Supervised Release for 2 years with Special Conditions. Special Assessment of \$100 to be paid forthwith. (Johnson, Mary) Modified on 12/8/2005 (Johnson, Mary). (Entered: 12/07/2005)
12/07/2005		Case Terminated as to Falcon Diomedes Andujar-Arais. (Johnson, Mary) (Entered: 12/07/2005)
12/08/2005	27	NOTICE OF APPEAL by Falcon Diomedes Andujar-Arais NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at http://www.ca1.uscourts.gov/clerks/transcript.htm MUST be completed and submitted to the Court of Appeals. Appeal Record due by 12/28/2005. (Byrne, Catherine) Modified on 12/14/2005 (Flaherty, Elaine). (Entered: 12/08/2005)